

REMARKS

Entry of the present amendment and reconsideration of the present application is respectfully requested. Claims 20-26 and 28 have been canceled, and claims 1, 3, 10, 11, and 15 have been amended. Each independent claim has been amended so as to clearly structurally distinguish over the cited art. All of the rejections are traversed, and a prompt notice of allowance is respectfully requested.

Claims 1-19 and 27-28 stand rejected based on Naybour or Naybour in view of Gianezio. As an initial matter, Applicant renews its objection to Naybour being cited as a reference under §102(b). Applicant believes that the Action intended to cite Naybour under §102(e), and Applicant respectfully reserves the right to predate the effective date of Naybour by a showing of prior invention.

The Action acknowledges that neither Naybour nor Naybour in view of Gianezio teach or suggest bone nails, but the Action appears to contend that Naybour is capable of being use as a bone nail of one so desires to do so. Applicant respectfully disagrees that Naybour is suitable for use as a bone nail. Nonetheless, Applicant has amended each of the independent claims such that they are clearly directed to bone nails and clearly and positively recite structure that distinguish over Naybour or Naybour in view of Gianezio.

Reconsideration of the application, as amended, is respectfully requested. If there are any remaining issues that can be addressed by phone or otherwise, the Examiner is invited to contact the undersigned directly.

Respectfully submitted,

By: /John M. Bradshaw, Reg. No. 46,573/
John M. Bradshaw
Woodard, Emhardt, Moriarty, McNett & Henry
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137
(317) 634-3456